



ARIZONA DEPARTMENT OF ADMINISTRATION STATE PROCUREMENT OFFICE

TECHNICAL BULLETIN No. 013

TITLE Verifying Contractor Compliance with Authorized Worker Laws
REVISION N/A
DATE October 1, 2008

Authority

- Applicable Statutes
 - A.R.S. § 41-4401 Government procurement; E-verify requirement; definitions
 - A.R.S. § 23-214 Verification of employment eligibility; basic pilot program
 - H.B. 2745/S.B. 1374 Employer Sanctions
 - 8 U.S.C. 1324a(a) Federal Immigration Reform and Control Act
- Applicable Executive Order
 - Executive Order No. 2005-30

Definitions

- **Contract** means all types of government entity agreements, regardless of what they may be called, for procurement of services in Arizona.
- **Contractor** means any person who has a contract with a government entity.
- **Government Entity** means any entity of this state and any political subdivision of this state that receives and uses tax revenues.
- **Individual contracts** means contracts awarded to one contractor as well as individual multiple contracts established under a single solicitation. All contracts awarded under a single contract number (i.e. contract number 123 awarded to company A, company B, and company C, = 3).
- **State Agency** means any department, commission, council, board, bureau, committee, institution, agency, government corporation or other establishment or official of the executive branch or corporation commission of the State subject to the provisions of the Arizona Procurement Code (a.k.a. State governmental unit).

Policy

It is the policy of the Arizona State Procurement Office that:

- A. State Agencies shall ensure that contractors and subcontractors comply with Federal and State immigration laws relating to the hiring of unauthorized workers.

- B. In accordance with A.R.S. § 41-4401, State Agencies shall include the following language in every contract and subcontract (including renewals). The following prescribed clauses shall be placed in the Special Terms and Conditions of newly awarded contracts and renewals:

**Compliance Requirements for A.R.S. § 41-4401, Government Procurement:
E-Verify Requirement**

1. The contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A. (That subsection reads: “After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the E-Verify program.)
 2. A breach of a warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of the contract and the contractor may be subject to penalties up to and including termination of the contract.
 3. Failure to comply with a State audit process to randomly verify the employment records of contractors and subcontractors shall be deemed a material breach of the contract and the contractor may be subject to penalties up to and including termination of the contract.
 4. The State Agency retains the legal right to inspect the papers of any employee who works on the contract to ensure that the contractor or subcontractor is complying with the warranty under paragraph 1.
- C. State agencies shall adopt and follow the Standard Operating Procedure (SOP) established by this office to comply with A.R.S. § 41-4401 Government Procurement; E-verify Requirement.

Discussion / Summary

A.R.S. § 41-4401 establishes specific requirements for government entities when entering into contracts. The statute prohibits, after September 30, 2008, a government entity from awarding a contract to any contractor or subcontractor that fails to verify the employment eligibility of new hires as required. The statute also requires government contracts to include certain contract provisions, including one that each contractor and subcontractor warrant their compliance with all federal immigration laws and regulations relating to their employees and compliance with A.R.S. § 23-214 (A). In addition, every government entity that enters into a contract must establish procedures to conduct random verification of employment records to ensure that contractors and subcontractors are complying with their warranties.

The SOP details the process to conduct random verifications of government contractors and subcontractors to ensure that the contractors and subcontractors are complying with their warranties.

Effective

This Technical Bulletin is hereby effective this 1st day of October, 2008, unless otherwise revised or repealed.

Statute, Administrative Rule, and Executive Orders shall prevail in the event of a discrepancy between this policy and applicable Statute, Administrative Rule, or Executive Orders.

SignatureA handwritten signature in blue ink, reading "Jean A. Clark", is written over a horizontal line.

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State Procurement Administrator